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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/695,460   | 10/29/2003  | Shinichi Takamoto    | NPR-127             | 4580             |
| 20374  | 7590        | 03/16/2006           | EXAMINER            |                  |
| KUBOVCIK & KUBOVCIK<br>SUITE 710<br>900 17TH STREET NW<br>WASHINGTON, DC 20006 |             |                      | MENDOZA, MICHAEL G  |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 3731                |                  |

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                       |  |  |
|------------------------------|---------------------------------------|--|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/695,460  | <b>Applicant(s)</b><br>TAKAMOTO ET AL. |  |
|                              | <b>Examiner</b><br>Michael G. Mendoza | <b>Art Unit</b><br>3731                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 December 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 19 December 2005 have been fully considered but they are not persuasive. The applicant argues that Kiyoshige does not teach a cylindrical tube having a lumen and a slit formed in a longitudinal direction. The examiner disagrees. The applicant has not claimed any limitations that concern the height or length of the claimed cylindrical tube. Kiyoshige does teach a short cylindrical tube.

Main Entry: **cyl·in·der** 1)

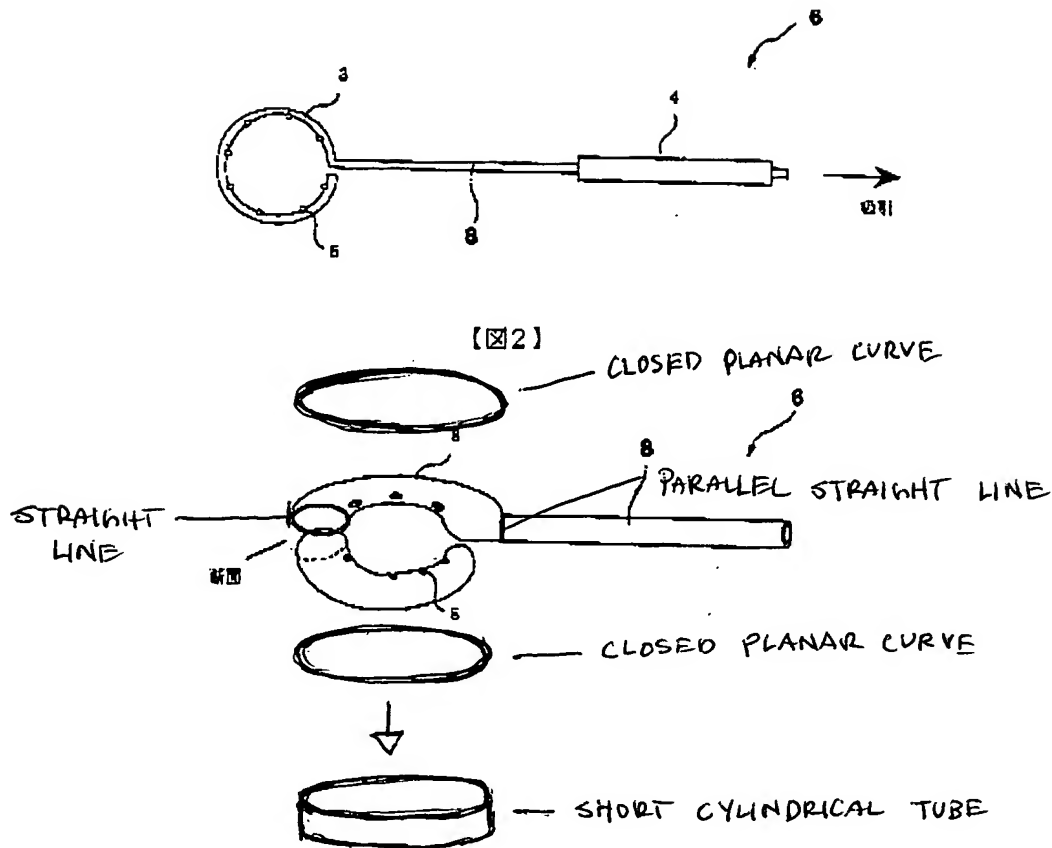
Pronunciation: 'si-l&n-d&r

Function: *noun*

**1 a** : the surface traced by a straight line moving parallel to a fixed straight line and intersecting a fixed planar closed curve.

<http://www.m-w.com/dictionary/cylinder>

2. The device of Kiyoshige meets the definition of cylinder. At least a portion of the outer and inner walls of the grasping portion would be a parallel. The walls intersect closed planar curves.



**Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

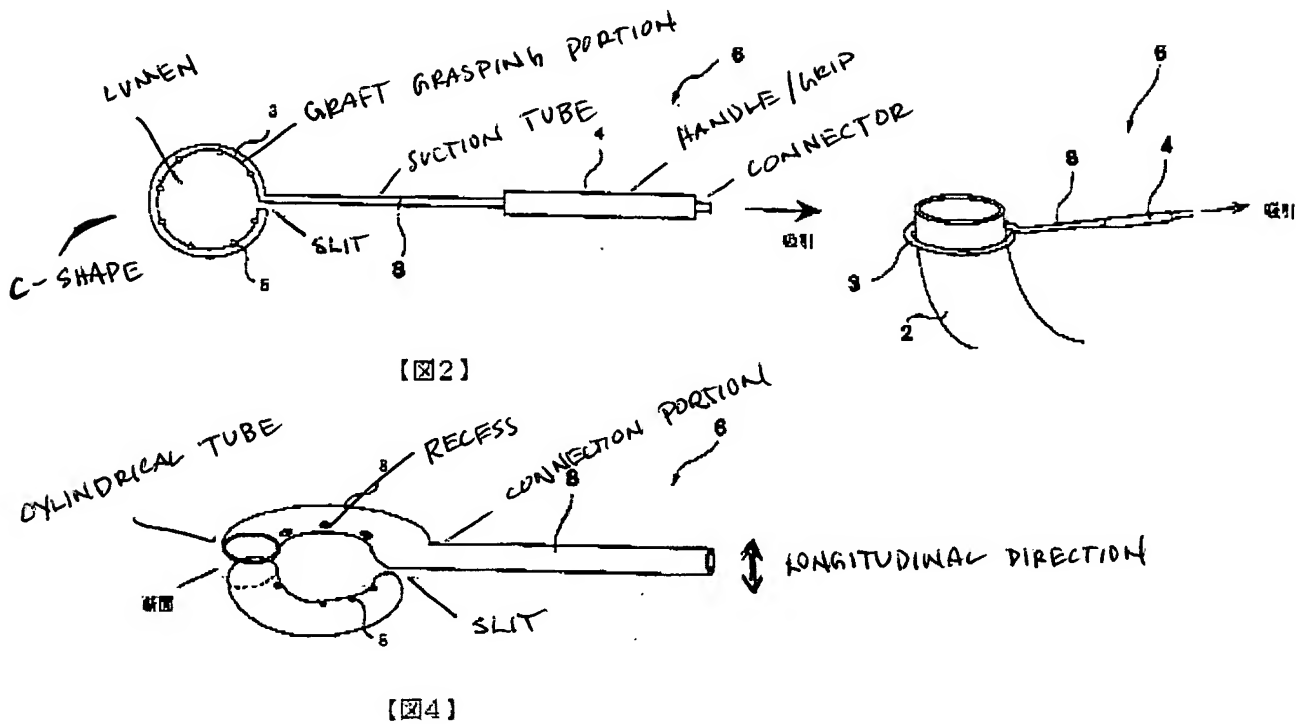
4. Claims 1 and 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kiyoshige JP 2002360593 in view of Grasso 6375651.

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5. Kiyoshige teaches a graft grasping device comprising a graft grasping portion in the shape of a cylindrical tube having a lumen and a slit formed in a longitudinal direction of the cylindrical tube such that the grasping portion has a c-shaped cross section; a suction tube; and an inner wall of the graft grasping portion having a recessed portion which communicates with a lumen of the suction tube. It should be noted that Kiyoshige fails to teach wherein the recessed portion is covered with a sheet having a plurality of pores, and a mesh being provided in a space defined between the recessed portion and the sheet.

6. Grasso, III et al. teaches a device with a common structure for providing a barrier. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include the sheets of Grasso, III et al. to prevent clogging of the suction tube (col. 5, lines 44-52).

7. Kiyoshige/Grasso teaches the graft grasping device according to claim 1, further comprising a means for gripping the device; wherein a suction tube connection portion is provided on an outer wall of the graft grasping portion and is connected to the suction tube and the means for gripping the device is connected to the suction tube connection portion concentrically to the suction tube; wherein a connector is provided at a proximal end of the suction tube.



**Allowable Subject Matter**

8. Claims 2 and 3 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

**Conclusion**

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Contacts***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael G. Mendoza whose telephone number is (571) 272-4698. The examiner can normally be reached on Mon.-Fri. 8:00 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anh Tuan Nguyen can be reached on (571) 272-44963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MM



GLENN K. DAWSON  
PRIMARY EXAMINER